

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re Application of : Customer Number: 43471
Erik METZ : Confirmation Number: 1071
Application No.: 10/765,349 : Tech Center Art Unit: 2423
Filed: January 27, 2004 : Examiner: Ricky CHIN
:

For: BAND LIMITED PORT AGGREGATION IN A DIGITAL RETURN PATH CATV SYSTEM

**NOTICE OF APPEAL
FROM THE PRIMARY EXAMINER
TO THE BOARD OF APPEALS**

Mail Stop NOTICE OF APPEAL
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicant hereby appeals to the Board of Appeals from the decision dated April 15, 2009 of the Primary Examiner finally rejecting claims 1-16.

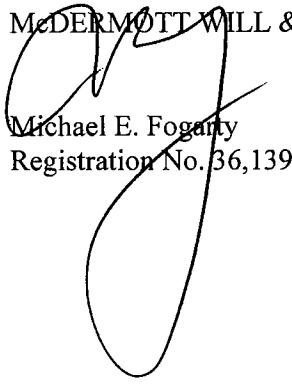
Appeal Fee: \$540.00

- Not required (fee paid in prior appeal in this application).
- Charge to Deposit Account No. 500417.
- Check Enclosed.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

McDERMOTT WILL & EMERY LLP


Michael E. Fogarty
Registration No. 36,139

600 13th Street, N.W.
Washington, DC 20005-3096
Phone: 202.756.8000 MEF/TS:blb
Facsimile: 202.756.8087
Date: October 15, 2009